



U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005

December 6, 2023

VIA ECF

Hon. Zahid N. Quraishi
United States District Judge
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: *Bristol Myers Squibb Co. v. Becerra*, No. 23-cv-3335-ZNQ-JBD
Janssen Pharmaceuticals, Inc. v. Becerra, No. 23-cv-3818-ZNQ-JBD

Dear Judge Quraishi:

Defendants in the above-captioned matters, having conferred with counsel for Plaintiffs in both cases, write to submit Defendants' proposed consent order to extend the page limit for Defendants' combined reply in support of their cross-motion for summary judgment to 45 pages. As good cause for this request, Defendants offer the following:

Plaintiffs in these related cases bring constitutional claims challenging the Medicare Drug Price Negotiation Program, which was created by the Inflation Reduction Act of 2022. *See Compl., Bristol Myers Squibb* (June 16, 2023), ECF No. 1; *Compl., Janssen* (July 18, 2023), ECF No. 1.

On July 28, 2023, all parties in both cases proposed scheduling orders to the Court, which addressed briefing deadlines, page limits, and a handful of other ancillary issues. *See Bristol Myers Squibb*, ECF No. 26; *Janssen*, ECF No. 13. On July 31, the Court issued orders in both cases, adopting the parties' proposed briefing schedule and page limits. *See Bristol Myers Squibb*, ECF No. 35; *Janssen*, ECF No. 14. On November 3, following subsequent letter requests by the parties, the Court issued orders extending the deadlines for all remaining briefs by 14 days. *Bristol Myers Squibb*, ECF No. 74; *Janssen*, ECF No. 64.

Plaintiffs' four summary-judgment briefs and Defendants' combined cross-motion for summary judgment and opposition were filed on the respective dates set forth in the Court's scheduling orders. *See Bristol Myers Squibb*, ECF Nos. 36, 38, 80; *Janssen*, ECF Nos. 30, 33, 71. The only brief remaining is Defendants' combined reply in support of their cross-motion for summary judgment, which is currently due on December 22.

Defendants respectfully request 15 additional pages beyond the page limit set out in the Court's scheduling orders (*i.e.*, 45 pages instead of 30). Although Defendants previously expected 30 pages to suffice, as the arguments have developed, Defendants now believe that additional pages would allow Defendants to address these important issues more coherently and comprehensively, and ultimately make it easier for the Court to reach a final resolution of all of the legal issues raised in the parties' summary-judgment briefs. Granting this request would not prejudice Plaintiffs, who have submitted a total of 159 pages of briefing. *See Bristol Myers Squibb*, ECF Nos. 36, 80 (39 and 40 pages);

Janssen, ECF Nos. 30, 71 (40 pages each). If Defendants' request were granted and they were to file a 45-page reply brief, Defendants' briefs for both cases would total 84 pages—only a few more pages than Plaintiffs separately filed in each of these cases.

Counsel for Defendants conferred with counsel for all Plaintiffs, who consent to Defendants' request.

For these reasons, Defendants respectfully request that the Court extend the page limit for Defendants' combined reply brief by 15 pages (from 30 to 45 pages). A proposed consent order is attached.

Dated: December 6, 2023

Respectfully submitted,

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